

IN THE CIRCUIT COURT OF ST. LOUIS CITY  
STATE OF MISSOURI

**JAZ'MIN FRANKS,**

PLAINTIFF,

v.

**GUCKENHEIMER  
ENTERPRISES, INC.,**

SERVE:

NATIONAL CORPORATE

RESEARCH, LTD.

9666 OLIVE BLVD., STE. 690

ST. LOUIS, MO 63132

DEFENDANT.

Cause No. \_\_\_\_\_

Division No. \_\_\_\_\_

**JURY TRIAL DEMANDED**

**PETITION FOR DAMAGES**

COMES NOW Plaintiff and for her Petition for Damages states:

**Nature of Action**

1. This action is brought pursuant to the Missouri Human Rights Act  
(hereinafter MHRA), Chapter 213, RSMo.

**Parties**

2. Plaintiff is an adult African-American female and a citizen of the State of Missouri.

3. Defendant Guckenheimer Enterprises, Inc. is and was a foreign corporation registered to do business in Missouri.

4. At all times relevant herein, Defendant was an employer within the meaning of § 213.010(7) of the MHRA in that employed more than six employees in the State of Missouri.



### **Jurisdiction & Venue**

5. Jurisdiction and venue are conferred on this Court pursuant to § RSMo. 213.111.

6. All or a substantial part of the unlawful discriminatory practices alleged below occurred in St. Louis City, Missouri.

### **Procedural Prerequisites**

7. On or about August 20, 2018, Plaintiff timely submitted a charge of discrimination with the Missouri Commission on Human Rights (MCHR) and the Equal Employment Opportunity Commission (EEOC) (through dual filing), wherein Plaintiff alleged Defendant unlawfully discriminated against her based on race, sex/gender, and retaliation.

8. On or about February 19, 2019, the MCHR issued its Notice of Right to Sue with regard to Plaintiff's Charge, and Plaintiff instituted this action within 90 days of her receipt of the Notice of Right to Sue. See Exhibit 1, which is attached hereto and incorporated herein.

### **Factual Allegations**

9. Defendant is a food service company that, among other things, provides on-site corporate food services.

10. Plaintiff became employed as a food prep worker in Defendant's facility located at 4474 Chouteau Avenue, St. Louis, MO 63110, on January 2, 2018.

11. Both of Plaintiff's immediate supervisors were Caucasian women.

12. In March, 2018, Plaintiff's supervisors became hostile towards her.

13. Her supervisors were also hostile towards other African-American individuals working under their supervision, as well as other females working under their supervision.

14. On at least one occasion, her supervisor used the “n word” in her presence.

15. Plaintiff complained to HR and others but no corrective action was taken.

16. In fact, HR blamed Plaintiff for the hostile work environment.

17. On April 6, 2018, Plaintiff was given a Corrective Action Report by her supervisor.

18. Plaintiff refused to sign the Corrective Action Report, and indicated: “Jaz’min will be giving her own written account to HR on the harassment taking place. Coming from her manager Heather as well as Leslie.”

19. On April, 15, 2018, Plaintiff resigned because she could no longer handle the work environment as it was negatively affecting her health.

**Count I – Retaliation/Constructive Discharge**

20. Plaintiff incorporates by reference, as if fully set forth herein, each and every allegation set forth in the preceding paragraphs and further alleges as follows:

21. Plaintiff resigned on or about April 15, 2018.

22. At the time of Plaintiff’s resignation, her working conditions had become intolerable such that Plaintiff was compelled to resign.

23. Moreover, a reasonable person in Plaintiff’s situation would find the working conditions intolerable.

24. Defendant either intended to force Plaintiff to resign, or Defendant could reasonably foresee that its actions would cause Plaintiff to resign.

25. Plaintiff's opposition to discrimination was a motivating factor to Defendant's discriminatory actions against Plaintiff.

26. Plaintiff was damaged as a result of Defendant's discriminatory actions.

27. Defendant's conduct as set forth above was outrageous because of an evil motive and reckless indifference to the rights of Plaintiff, in that Defendant intentionally discriminated against Plaintiff without just cause or excuse in violation of the Missouri Human Rights Act.

WHEREFORE, Plaintiff prays for judgment in her favor and against Defendant for damages in excess of \$25,000, including both actual and punitive damages, for the costs incurred herein and expended, for attorneys' fees, and for such other and further relief as the Court deems just.

**Count II – Race/Constructive Discharge**

28. Plaintiff incorporates by reference, as if fully set forth herein, each and every allegation set forth in the preceding paragraphs and further alleges as follows:

29. Plaintiff resigned on or about April 15, 2018.

30. At the time of Plaintiff's resignation, her working conditions had become intolerable such that Plaintiff was compelled to resign.

31. Moreover, a reasonable person in Plaintiff's situation would find the working conditions intolerable.

32. Defendant either intended to force Plaintiff to resign, or Defendant could reasonably foresee that its actions would cause Plaintiff to resign.

33. Plaintiff's race was a motivating factor to Defendant's discriminatory actions against Plaintiff.

34. Plaintiff was damaged as a result of Defendant's discriminatory actions.

35. Defendant's conduct as set forth above was outrageous because of an evil motive and reckless indifference to the rights of Plaintiff, in that Defendant intentionally discriminated against Plaintiff without just cause or excuse in violation of the Missouri Human Rights Act.

### **Count III – Gender/Constructive Discharge**

36. Plaintiff incorporates by reference, as if fully set forth herein, each and every allegation set forth in the preceding paragraphs and further alleges as follows:

37. Plaintiff resigned on or about April 15, 2018.

38. At the time of Plaintiff's resignation, her working conditions had become intolerable such that Plaintiff was compelled to resign.

39. Moreover, a reasonable person in Plaintiff's situation would find the working conditions intolerable.

40. Defendant either intended to force Plaintiff to resign, or Defendant could reasonably foresee that its actions would cause Plaintiff to resign.

41. Plaintiff's gender was a motivating factor to Defendant's discriminatory actions against Plaintiff.

42. Plaintiff was damaged as a result of Defendant's discriminatory actions.

43. Defendant's conduct as set forth above was outrageous because of an evil motive and reckless indifference to the rights of Plaintiff, in that Defendant intentionally discriminated against Plaintiff without just cause or excuse in violation of the Missouri Human Rights Act.

WHEREFORE, Plaintiff prays for judgment in her favor and against Defendant for damages in excess of \$25,000, including both actual and punitive damages, for the costs incurred herein and expended, for attorneys' fees, and for such other and further relief as the Court deems just.

**Count IV – Retaliation/Hostile Work Environment**

44. Plaintiff incorporates by reference, as if fully set forth herein, each and every allegation set forth in the preceding paragraphs and further alleges as follows:

45. Plaintiff opposed discrimination, and therefore is a member of a protected group.

46. Plaintiff was subjected to unwelcome harassment during her employment with Defendant.

47. This unwelcome harassment adversely affected Plaintiff's employment, because the hostile environment made it difficult for Plaintiff to perform her job duties and caused her great emotional distress.

48. Defendant did not try to correct the harassing behavior despite knowing about it.

49. The harassment Plaintiff has endured is and was severe and pervasive such that it created an intimidating, hostile and offensive work environment, such that it affected a term, condition or privilege of her employment.

50. Plaintiff believes that her work environment was hostile and abusive, and, moreover, a reasonable person in Plaintiff's position would also find the work environment to be hostile and abusive.

51. Plaintiff's opposition to discrimination was a motivating factor to Defendant's discriminatory actions against Plaintiff.

52. Plaintiff was damaged as a result of Defendant's actions.

53. Defendant's conduct of allowing a hostile work environment was outrageous because of an evil motive and reckless indifference to the rights of Plaintiff, in that Defendant intentionally allowed the hostile work environment to continue, and did not rectify the situation despite having actual knowledge of the situation.

WHEREFORE, Plaintiff prays for judgment in her favor and against Defendant for damages in excess of \$25,000, including both actual and punitive damages, for the costs incurred herein and expended, for attorneys' fees, and for such other and further relief as the Court deems just.

**Count V – Race/Hostile Work Environment**

54. Plaintiff incorporates by reference, as if fully set forth herein, each and every allegation set forth in the preceding paragraphs and further alleges as follows:

55. Plaintiff is African-American, and therefore is a member of a protected group.

56. Plaintiff was subjected to unwelcome harassment during her employment with Defendant.

57. This unwelcome harassment adversely affected Plaintiff's employment, because the hostile environment made it difficult for Plaintiff to perform her job duties and caused her great emotional distress.

58. Defendant did not try to correct the harassing behavior despite knowing about it.

59. The harassment Plaintiff has endured is and was severe and pervasive such that it created an intimidating, hostile and offensive work environment, such that it affected a term, condition or privilege of her employment.

60. Plaintiff believes that her work environment was hostile and abusive, and, moreover, a reasonable person in Plaintiff's position would also find the work environment to be hostile and abusive.

61. Plaintiff's race was a motivating factor to Defendant's discriminatory actions against Plaintiff.

62. Plaintiff was damaged as a result of Defendant's actions.

63. Defendant's conduct of allowing a hostile work environment was outrageous because of an evil motive and reckless indifference to the rights of Plaintiff, in that Defendant intentionally allowed the hostile work environment to continue, and did not rectify the situation despite having actual knowledge of the situation.

WHEREFORE, Plaintiff prays for judgment in her favor and against Defendant for damages in excess of \$25,000, including both actual and punitive damages, for the costs incurred herein and expended, for attorneys' fees, and for such other and further relief as the Court deems just.

#### **Count VI – Gender/Hostile Work Environment**

64. Plaintiff incorporates by reference, as if fully set forth herein, each and every allegation set forth in the preceding paragraphs and further alleges as follows:

65. Plaintiff is female, and therefore is a member of a protected group.

66. Plaintiff was subjected to unwelcome harassment during her employment with Defendant.



67. This unwelcome harassment adversely affected Plaintiff's employment, because the hostile environment made it difficult for Plaintiff to perform her job duties and caused her great emotional distress.

68. Defendant did not try to correct the harassing behavior despite knowing about it.

69. The harassment Plaintiff has endured is and was severe and pervasive such that it created an intimidating, hostile and offensive work environment, such that it affected a term, condition or privilege of her employment.

70. Plaintiff believes that her work environment was hostile and abusive, and, moreover, a reasonable person in Plaintiff's position would also find the work environment to be hostile and abusive.

71. Plaintiff's gender was a motivating factor to Defendant's discriminatory actions against Plaintiff.

72. Plaintiff was damaged as a result of Defendant's actions.

73. Defendant's conduct of allowing a hostile work environment was outrageous because of an evil motive and reckless indifference to the rights of Plaintiff, in that Defendant intentionally allowed the hostile work environment to continue, and did not rectify the situation despite having actual knowledge of the situation.

WHEREFORE, Plaintiff prays for judgment in her favor and against Defendant for damages in excess of \$25,000, including both actual and punitive damages, for the costs incurred herein and expended, for attorneys' fees, and for such other and further relief as the Court deems just.

Respectfully submitted,

PONDER ZIMMERMANN LLC

By           /s/ Douglas B. Ponder          

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*Attorneys for Plaintiff*

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5/28/19

IN THE 22ND JUDICIAL CIRCUIT, CITY OF ST LOUIS, MISSOURI

Judge or Division: REX M BURLISON	Case Number: 1922-CC00999	
Plaintiff/Petitioner: JAZ'MIN FRANKS	Plaintiff's/Petitioner's Attorney/Address DOUGLAS BRIAN PONDER 20 SOUTH SARAH ST ST LOUIS, MO 63108 549608	
Defendant/Respondent: GUCKENHEIMER ENTERPRISES, INC.	Court Address: CIVIL COURTS BUILDING 10 N TUCKER BLVD SAINT LOUIS, MO 63101	
Nature of Suit: CC Employmnt Discrmntn 213.111		(Date File Stamp)

Summons in Civil Case

The State of Missouri to: GUCKENHEIMER ENTERPRISES, INC.  
Alias: NATIONAL CORP RESEARCH LTD  
9666 OLIVE BLVD STE 690  
ST. LOUIS, MO 63132

13 DEPOS

ST LOUIS COUNTY SHERIFF

COURT SEAL OF  
CITY OF ST LOUIS

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

May 16, 2019

Date Clerk

Further Information:

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within 30 days after the date of issue.

I certify that I have served the above summons by: (check one)

☐ delivering a copy of the summons and a copy of the petition to the defendant/respondent.

☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the defendant/respondent with \_\_\_\_\_, a person of the defendant's/respondent's family over the age of 15 years who permanently resides with the defendant/respondent.

☒ (for service on a corporation) delivering a copy of the summons and a copy of the complaint to: Sue (name) Secretary (title).

☐ other: \_\_\_\_\_

Served at 9666 Olive #690 (address)  
in St Louis (County/City of St. Louis), MO, on 5/28/19 (date) at 5:35 (time).

Scott DePinto Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on \_\_\_\_\_ (date).

(Seal)

My commission expires: \_\_\_\_\_ Date Notary Public

Sheriff's Fees, if applicable

Summons \$ \_\_\_\_\_

Non Est \$ \_\_\_\_\_

Sheriff's Deputy Salary

Supplemental Surcharge \$ 10.00

Mileage \$ \_\_\_\_\_ (\_\_\_\_\_ miles @ \$ \_\_\_\_\_ per mile)

Total \$ \_\_\_\_\_

A copy of the summons and a copy of the petition must be served on each defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

5/28/19

19-SMCC-4557



Judge or Division: REX M BURLISON	Case Number: 1922-CC00999	
Plaintiff/Petitioner: JAZ'MIN FRANKS	Plaintiff's/Petitioner's Attorney/Address DOUGLAS BRIAN PONDER 20 SOUTH SARAH ST ST LOUIS, MO 63108	
Defendant/Respondent: GUCKENHEIMER ENTERPRISES, INC.	Court Address: CIVIL COURTS BUILDING 10 N TUCKER BLVD SAINT LOUIS, MO 63101	
Nature of Suit: CC Employmnt Discrmntn 213.111		(Date File Stamp)

### Summons in Civil Case

The State of Missouri to: **GUCKENHEIMER ENTERPRISES, INC.**

Alias:

NATIONAL CORP RESEARCH LTD  
9666 OLIVE BLVD STE 690  
ST. LOUIS, MO 63132

**ST LOUIS COUNTY SHERIFF**

COURT SEAL OF



CITY OF ST LOUIS

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

**May 16, 2019**

Date

Clerk

Further Information:

#### Sheriff's or Server's Return

**Note to serving officer:** Summons should be returned to the court within 30 days after the date of issue.

I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the defendant/respondent.
- ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the defendant/respondent with \_\_\_\_\_, a person of the defendant's/respondent's family over the age of 15 years who permanently resides with the defendant/respondent.
- ☐ (for service on a corporation) delivering a copy of the summons and a copy of the complaint to: \_\_\_\_\_ (name) \_\_\_\_\_ (title).
- ☐ other: \_\_\_\_\_.

Served at \_\_\_\_\_ (address)  
in \_\_\_\_\_ (County/City of St. Louis), MO, on \_\_\_\_\_ (date) at \_\_\_\_\_ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

**Must be sworn before a notary public if not served by an authorized officer:**

Subscribed and sworn to before me on \_\_\_\_\_ (date).

(Seal)

My commission expires: \_\_\_\_\_

Date

Notary Public

#### Sheriff's Fees, if applicable

Summons	\$ _____
Non Est	\$ _____
Sheriff's Deputy Salary	
Supplemental Surcharge	\$ 10.00
Mileage	\$ _____ (_____ miles @ \$._____ per mile)
<b>Total</b>	<b>\$ _____</b>

A copy of the summons and a copy of the petition must be served on **each** defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.



**STATE COURT DOCKET SHEET***Jaz'Min Franks v. Guckenheimer Enterprises, Inc.*

Case No. 1922-cc00999

As of June 27, 2019

**1922-CC00999 - JAZ'MIN FRANKS V GUCKENHEIMER ENTERPRISES INC (E-CASE)**

<b>Case Header</b>	<b>Parties &amp; Attorneys</b>	<b>Docket Entries</b>	<b>Charges, Judgments &amp; Sentences</b>	<b>Service Information</b>	<b>Filings Due</b>	<b>Scheduled Hearings &amp; Trials</b>	<b>Civil Judgments</b>	<b>Garnishments/ Execution</b>
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- 05/31/2019 ☐ **Corporation Served**  
Document ID - 19-SMCC-7685; Served To - GUCKENHEIMER ENTERPRISES, INC.; Server - ; Served Date - 28-MAY-19; 00:00:00; Service Type - Sheriff Department; Reason Description - Served; Service Text - RECEIVED BY SUE
- ☐ **Notice of Service**  
19-SMCC-7685; Electronic Filing Certificate of Service.
- 05/29/2019 ☐ **Jury Trial Scheduled**  
**Scheduled For:** 11/12/2019; 9:00 AM; REX M BURLISON; City of St. Louis
- 05/16/2019 ☐ **Summons Issued-Circuit**  
Document ID: 19-SMCC-7685, for GUCKENHEIMER ENTERPRISES, INC..
- ☐ **Filing Info Sheet eFiling**  
**Filed By:** DOUGLAS BRIAN PONDER
- ☐ **Note to Clerk eFiling**  
**Filed By:** DOUGLAS BRIAN PONDER
- ☐ **Pet Filed in Circuit Ct**  
Petition for Damages; Exhibit 1.  
**Filed By:** DOUGLAS BRIAN PONDER  
**On Behalf Of:** JAZ'MIN FRANKS
- ☐ **Judge Assigned**